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UNITED STATES DISTRICT COURT
6
DISTRICT OF ARIZONA
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8 Arizona Broadcasters Association, et al.,
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10 Plaintiffs,
11 v.
12 Kris Mayes, in her official capacity as
13 Attorney General for the State of Arizona,
14 et al.,
15 Defendants.
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No. CV-22-1431-PHX-JJT

[PROPOSED] ORDER FOR
PERMANENT INJUNCTION
AND DECLARATORY
JUDGMENT

18 Upon stipulation of the parties and good cause shown, and for the reasons set forth
19 on the record at the hearing on Plaintiffs' request for a Preliminary Injunction, which this
20 Court will treat as a trial on the merits under Rule 65(a)(2), and in Plaintiffs' Complaint
21 and Motion for Preliminary Injunction, which Defendants did not challenge on the merits,

22 **IT IS ORDERED** as follows:

- 23 1. This Court has jurisdiction over this matter under Article III § 2 of the United
24 States Constitution and 28 U.S.C. §§ 1331 and 1343.
25 2. A.R.S. § 13-3732 is declared unconstitutional as a violation of the First
26 Amendment to the United States Constitution, as applied to the states through the
27 Fourteenth Amendment, because:
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- 1 a. there is a clearly established right to record law enforcement officers
2 engaged in the exercise of their official duties, *see e.g., Askins v. Dep't of*
3 *Homeland Sec.*, 899 F.3d 1035, 1044 (9th Cir. 2018);
4 b. the statute imposes a content-based restriction that is subject to strict
5 scrutiny as it “singles out specific subject matter”—recordings of law
6 enforcement activities—“for differential treatment,” *Reed v. Town of*
7 *Gilbert*, 576 U.S. 155, 169 (2015); and
8 c. the statute does not survive strict scrutiny because it is not narrowly tailored
9 or necessary to prevent interference with police officers given other
10 Arizona laws in effect.
11 3. A.R.S. § 13-3732 is declared unconstitutional as a violation of the First
12 Amendment to the United States Constitution, as applied to the states through the
13 Fourteenth Amendment, because:
14 a. the statute is not a reasonable “time place and manner” restriction, *see Hill*
15 *v. Colorado*, 530 U.S. 703, 713 (2000); and
16 b. the statute cannot withstand intermediate scrutiny because the law prohibits
17 or chills a substantial amount of First Amendment protected activity and is
18 unnecessary to prevent interference with police officers given other Arizona
19 laws in effect.
20 4. Defendants, and any others acting in concert or participation with them who
21 receive actual notice of this injunction, are permanently enjoined from enforcing
22 A.R.S. § 13-3732 against any person or entity, or using an alleged violation of
23 A.R.S. § 13-3732 as an excuse, justification, or reason to punish or otherwise take
24 or fail to take any action adverse to the interests of any person or entity.
25 5. This Court shall retain jurisdiction over this action for the purposes of construction,
26 modification, and enforcement of this Order.

IT IS SO ORDERED.

Dated this _____ day of _____ 2023.

Honorable John J. Tuchi
United States District Judge